

State of Louisiana
 State of Florida
 State of Idaho
 State of Kentucky
 State of Mississippi
 State of Montana
 State of North Dakota
 State of South Carolina
 State of Texas
 State of Virginia
 Acadia Parish
 Ascension Parish
 Assumption Parish
 Avoyelles Parish
 Bossier Parish
 Caldwell Parish
 Cameron Parish
 Catahoula Parish
 Claiborne Parish
 Concordia Parish
 East Baton Rouge Parish
 East Feliciana Parish
 Evangeline Parish
 Franklin Parish
 Grant Parish
 Iberville Parish
 Jackson Parish
 Jefferson Parish
 Jefferson Davis Parish
 Lafayette Parish
 Lafourche Parish
 Livingston Parish
 Madison Parish
 Orleans Parish
 Plaquemines Parish
 St. Bernard Parish
 St. Charles Parish
 St. Helena Parish
 St. James Parish
 St. John the Baptist Parish
 St. Landry Parish
 St. Mary Parish
 St. Tammany Parish
 Tangipahoa Parish
 Tensas Parish
 Terrebonne Parish
 Vermilion Parish
 Vernon Parish
 Washington Parish
 Webster Parish
 West Baton Rouge Parish
 West Feliciana Parish
 Winn Parish
 Bossier Levee District
 Fifth Louisiana Levee District
 Grand Isle Independent Levee District
 Lafourche Basin Levee District
 North Lafourche Conservation, Levee, and Drainage District
 Pontchartrain Levee District
 Southeast Louisiana Flood Protection Authority—East
 Southeast Louisiana Flood Protection Authority—West
 South Lafourche Levee District
 St. Mary Levee District
 St. Tammany Levee District
 East Ascension Consolidated Gravity Drainage District No. 1
 City of New Iberia
 Town of Jean Lafitte
 Town of Grand Isle
 Assoc. of Levee Boards of LA

Background:

In the mid-20th century, Americans faced a growing problem of the general unavailability of flood insurance from private insurers. The withdrawal by private insurers in the devastating aftermath of Hurricane Betsy in 1968 left flood victims largely reliant on federal disaster assistance to piece their lives back together. In 1968, Congress recognized that this was not sustainable and responded by passing the National Flood Insurance Act, creating the National Flood Insurance Program (NFIP) which commits the federal government to making flood insurance available at reasonable rates, terms, and conditions to encourage people and businesses to purchase flood insurance. The NFIP is now the primary source of flood insurance coverage for residential properties in the United States. It is funded from premiums, fees, and surcharges paid by NFIP policyholders; annual appropriations; borrowing from the Treasury when the balance of the NFIP Fund is insufficient to pay insurance claims; and reinsurance if NFIP losses are sufficiently large.

Facts:

- Banks won't finance certain properties without flood insurance, making it functionally mandatory for many homeowners.
- Property owners are required to purchase flood insurance if their property has an estimated 1% or greater risk of flooding every year.
- 10-12% of U.S. population live in areas with elevated risk of flooding.
- Property owners who do not obtain flood insurance may not be eligible for certain types of disaster assistance.
- Property owners who have obtained disaster relief or SBA loans are obligated to hold flood insurance going forward.
- As of 2015, an estimated 15 million people live in Special Flood Hazard Areas; when combined with other areas exposed to flood risk, an estimated 12% of the US population – or about 41 million people – will be effected by Risk Rating 2.0 - Equity in Action.
- The average household income in Louisiana is \$77,025/year. The average flood insurance premium policy will go from \$813 to \$1904, almost double what it was under the Legacy Rating System. Based on this increase, there will be a 1.42% reduction in home purchase capabilities.
- 90% of Louisiana ratepayers subject to an increase in their flood insurance premiums can expect to see their annual cost increase by 18% per year for the next ten years. In practice, this means that a policy that was zoned to cost \$572 per year in 2021 may eventually exceed \$8,000 per year under the new pricing methodology. Some of the highest costs for flood insurance are occurring in areas that under previous Federal Emergency Management Agency (FEMA) maps were not in flood zones.
- These increased costs will lead to fewer policies in force and less coverage, creating greater risk exposure for Louisiana and its citizens.

Legacy

Public has access to flood frequency data in their area, making premiums consistent & predictable

Relies on historical data

Information available to all

Provided discounts for mitigation efforts; e.g., building levees, elevating homes, and improving drainage systems

Grandfathering available to policyholders when map change resulted in zone or base flood elevation change

Risk Rating 2.0

Public has no way to determine how flood frequency relates to their premium

Relies on hypothetical events

Secrecy dictates calculations

Does not take into account any mitigation efforts of the individual or community when calculating premiums

Full risk premium without regard to changes made to properties under the old system

Defendants

Alejandro Mayorkas, in his official capacity as Secretary of Department of Homeland Security

Department of Homeland Security

Deanne Criswell, in her official capacity as Administrator of the Federal Emergency Management Agency (FEMA)

Federal Emergency Management Agency (FEMA)

Federal Insurance and Mitigation Administration

Risk Rating 2.0 - Equity in Action Harms to Plaintiffs:

Fails to protect policy holder

Reneges on promises, e.g., grandfathered rates

Fails to recognize mitigation efforts

Imposes unreasonable and unaffordable costs

Drives individuals out of insurance pool, which equals concentrated risk

Fails to recognize statutory obligations

Forces people to leave their communities

The new methodology began governing the pricing of all new insurance policies starting on October 1, 2021, and all others upon their first renewal after April 1, 2022.

Claims:

- NFIP's rates must be consistent with objective of making flood insurance available where necessary at reasonable rates
- FEMA failed to take into account skyrocketing costs generated by new policy, mass withdrawals, or the effects of those withdrawals
- FEMA rate calculations completely ignore crucial risk factors, e.g., the effect of levees on the likelihood of flood damage
- Risk Rating 2.0 - Equity in Action was published and implemented without notice or comment in violation of federal law
- FEMA did not consider homeowners reliance on grandfathered NFIP policies, or requirements of those who had previously accepted disaster assistance, SBA loans, or other forms of assistance
- FEMA did not consider the reliance interests of communities who had adopted ordinances and regulations in exchange for participation in NFIP, or those who had gone above and beyond the minimum federal requirements in exchange for discounts

As a result of the foregoing, Louisiana, along with its Parishes, levee districts, and other States are suing to have the new rate methodologies declared unlawful and to enjoin their implementation.

Such actions are:

- Arbitrary & capricious
- In violation of the Administrative Procedure Act (APA)
- Exceed FEMA's statutory authority
- Unconstitutional
- Contrary to Law